

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD A. SEIBERT and U.S. POSTAL SERVICE,
POST OFFICE, Reading, PA

*Docket No. 99-448; Submitted on the Record;
Issued August 7, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant sustained an emotional condition in the performance of duty.

On April 26, 1997 appellant, then a 48-year-old letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he sustained an emotional condition while in the performance of duty. He described the nature of his condition as major depressive disorder. Appellant identified December 9, 1996 as the date he first became aware of his condition. He further indicated that he first realized his condition was caused or aggravated by his employment on April 21, 1997 when his doctor advised him that his illness was work related. Appellant ceased working on or about February 1, 1997.

Appellant provided a detailed chronology of events covering the period of October 25, 1996 through March 26, 1997 to which he attributed his emotional condition. In summary, appellant explained that, after his mail route was adjusted in late October 1996, he experienced difficulty in completing his assigned duties in the allotted time frame.¹ He identified several instances where he sought either additional time or assistance to complete his route. Appellant also described the difficulties he encountered with the employing establishment in obtaining the requested assistance to complete his daily job duties. He also identified instances where the employing establishment allegedly denied him access to his union steward and improperly denied various requests for sick leave. Additionally, appellant submitted an April 21, 1997 report from Dr. Harry A. Doyle, a Board-certified psychiatrist, who diagnosed major depressive disorder, single episode, severe without psychotic symptoms.² He indicated that appellant was

¹ In an entry dated January 17, 1997, appellant noted the following: "I feel myself more and more the past few weeks not being able to perform my day to day duties. I am making mistakes in the office and on the street. Such as miscasing, misdelivering and walking into the street not looking or thinking."

² Dr. Doyle also noted that appellant had a preexisting seizure disorder.

totally disabled as a result of his depressive disorder and that his condition was caused by assigned excessive work duties and was further aggravated by abusive and punitive management tactics. In a subsequent report dated May 2, 1997, Dr. Doyle reiterated his earlier diagnosis and further advised that, in all probability, appellant would be unable to perform his duties as a letter carrier for at least one year.

On May 30, 1997 the Office of Workers' Compensation Programs requested that appellant provide additional medical and factual information. He responded by letter dated June 25, 1997.

In a decision dated January 5, 1998, the Office denied appellant's claim on the basis that he failed to establish that his injury occurred in the performance of duty. In an accompanying memorandum, the Office explained that appellant failed to implicate any compensable employment factors.

The Board finds that the case is not in posture for decision.

In order to establish that he sustained an emotional condition causally related to factors of his federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to his condition; (2) rationalized medical evidence establishing that he has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that his emotional condition or psychiatric disorder is causally related to the identified compensable employment factors.³

Workers' compensation law does not apply to each and every injury or illness that is somehow related to one's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless, does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or hold a particular position.⁴ Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting his allegations with probative and reliable evidence.⁵

If a claimant implicates a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁶

³ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁶ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

The Board has held that an emotional reaction to a situation in which an employee is trying to meet his position requirements is compensable.⁷ In the instant case, appellant alleged that his emotional condition initially resulted from his unsuccessful efforts to meet the requirements of his position as a letter carrier. He explained that, following an administrative adjustment to his route in October 1996, it became difficult for him to complete his assigned duties. Appellant also provided copies of several PS Forms 3996 (Carrier-Auxiliary Control) covering the period of October 25, 1996 through January 21, 1997, which document his requests for additional time or assistance to complete his duties and the reasons for the requested assistance. In a statement dated May 19, 1997, the employing establishment acknowledged that appellant's route had been adjusted along with a number of other mail routes in their particular service area. The employing establishment attributed appellant's inability to complete his route in the allotted time to his "[continually wasting] time in the office and on the street." The statement also indicated that appellant had been instructed on many occasions about his time wasting practices and deficiencies. It was further noted that other less-experienced carriers had demonstrated the ability to complete appellant's route in less than eight hours.

There is no dispute that appellant had difficulty performing the full range of his assigned duties subsequent to his route adjustment in October 1996. However, there clearly is a dispute as to why appellant was unable to complete his duties in the allotted time frame. Whereas appellant attributed his difficulties to an adjustment process that did not adequately account for the volume of mail on his route, the employing establishment attributed appellant's deficiencies to improper time management. Although neither party provided sufficient proof to substantiate their respective positions as to the cause of appellant's difficulties, this particular point is not dispositive of the issue of whether appellant has identified a compensable employment factor. While the Board has found that employment factors such as an unusually heavy work load and the imposition of unreasonable deadlines are covered under the Act,⁸ appellant need not prove that he was overworked in order to demonstrate a compensable employment factor. Appellant's emotional reaction to his inability to perform his regularly assigned duties is covered under the Act.⁹

Appellant also alleged that his emotional condition was further aggravated by the employing establishment's handling of various leave requests and other administrative matters. Although the handling of leave requests and attendance matters are generally related to the employment, they are administrative functions of the employer, and not duties of the employee.¹⁰ As a general rule, a claimant's reaction to administrative or personnel matters falls outside the scope of the Federal Employees' Compensation Act.¹¹ However, to the extent that the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its

⁷ See *Lillian Cutler*, *supra* note 4.

⁸ See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984).

⁹ See *Lillian Cutler*, *supra* note 4.

¹⁰ *Dinna M. Ramirez*, 48 ECAB 308, 313 (1997).

¹¹ *Id.*

administrative or personnel responsibilities, such action will be considered a compensable employment factor.¹²

Appellant has failed to demonstrate that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities. The alleged instances of abuse with respect to the granting of official time, sick and annual leave and the imposition of other work-related filing requirements have not been proven on the record. Furthermore, while appellant has filed numerous grievances and other complaints with the National Labor Relations Board regarding the above-noted incidents, the record does not include a final determination with respect to any of these filings. The evidence of record is not sufficient to establish that the employing establishment erred in imposing such requirements.

In the present case, appellant has established a compensable employment factor with respect to his emotional reaction to his inability to perform his regularly assigned duties. As appellant has established a compensable employment factor, the Office must base its decision on an analysis of the medical evidence. Because the Office found that appellant failed to identify any compensable employment factors, it did not further develop or analyze the medical evidence of record. Therefore, the case will be remanded to the Office for this purpose.¹³ After such further development as deemed necessary, the Office should issue an appropriate decision on this matter.

The January 5, 1998 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
August 7, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

¹² *Id.*

¹³ See *Lorraine E. Schroeder*, 44 ECAB 323, 330 (1992).